

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK**

|                                |                           |
|--------------------------------|---------------------------|
| -----X                         |                           |
| In re                          | : Chapter 11              |
|                                | :                         |
| DOWLING COLLEGE,               | :                         |
| f/d/b/a DOWLING INSTITUTE,     | : Case No. 16-75545 (REG) |
| f/d/b/a DOWLING COLLEGE ALUMNI | :                         |
| ASSOCIATION,                   | :                         |
| f/d/b/a CECOM,                 | :                         |
| a/k/a DOWLING COLLEGE, INC.,   | :                         |
|                                | :                         |
| Debtor.                        | :                         |
| -----X                         |                           |

**STIPULATION AND CONSENT ORDER APPROVING AND AUTHORIZING THE  
PAYMENT OF COMMISSION DUE ON SALE OF BROOKHAVEN CAMPUS**

**RECITALS**

WHEREAS, upon the application dated November 29, 2016 [DE 15] (the “Campus Agents Retention Application”), Dowling College (“Dowling” or the “Debtor”), debtor and debtor-in-possession in the above-captioned chapter 11 case (the “Chapter 11 Case”), moved this Court for an order, pursuant to Sections 327(a) and 328(a) of Title 11 of the United States Code (the “Bankruptcy Code”), authorizing the Debtor to employ and retain A&G Realty Partners, LLC (“A&G”) and Madison Hawk Partners, LLC (“Madison Hawk”) and together with A&G, the “Campus Agents”) as its exclusive real estate advisors to assist with the sale and disposition of the Series 2006 Collateral (as defined in the Campus Agents Retention Application); and

WHEREAS, by Order dated December 19, 2016 [DE 114] (the “Campus Agents Retention Order”), this Court authorized the retention of the Campus Agents and permitted the Debtor to pay A&G (for the benefit of both A&G and Madison Hawk) its Property Sale Fee (as defined in the Campus Agents Retention Application) directly from the sale proceeds of any parcel of the Series 2006 Collateral; and

WHEREAS, upon the application dated December 6, 2016 [DE 77] (the “Dorm Agent Retention Application”), Dowling moved this Court for an order, pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code, authorizing the Debtor to employ and retain CBRE, Inc. (“CBRE”) and together with the Campus Agents, the “Real Estate Agents”) as its exclusive real estate advisors to assist with the sale and disposition of the Brookhaven Dorm (as defined in the Dorm Agent Retention Application); and

WHEREAS, by Order dated January 13, 2017 [DE 166] (the “CBRE Retention Order”), this Court authorized the retention of CBRE and permitted the Debtor to pay CBRE its Commission (as defined in the Dorm Agent Retention Application) directly from the sale proceeds of the Brookhaven Dorm; and

WHEREAS, pursuant to both the Campus Agents Retention Order and the CBRE Retention Order (collectively the “Retention Orders”), the maximum aggregate fee or commission to be paid to the Real Estate Agents is a fee equal to four percent (4%) of the purchase price for the property sold, but the Retention Orders did not allocate or apportion the aggregate fee or commission entitlements as between the Real Estate Agents; and

WHEREAS, pursuant to the Retention Orders, the fees due and payable to the Real Estate Agents remain subject to the filing of a final fee application by the Real Estate Agents in accordance with the applicable provision of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and any Orders entered by the Court; and

WHEREAS, by Order dated June 19, 2018 [DE 544] (the “Sale Order”) this Court approved the Debtor’s sale and conveyance to Triple Five Aviation Industries LLC (“Buyer”) of certain real property and other acquired assets commonly referred to as the “Brookhaven Campus” pursuant to Sections 105(a), 363 and 365 of the Bankruptcy Code; and

WHEREAS, the Debtor closed on the sale of its Brookhaven Campus (the “Sale”) with Buyer on September 21, 2018 (the “Closing Date”) for a purchase price of \$14,000,000.00; and

WHEREAS, in relation to the Sale, the Buyer was represented in the transaction by a broker identified as Whale Rock Realty LLC (the “Buyer Broker”); and

WHEREAS, by agreement among the Real Estate Agents, the Buyer Broker was entitled to receive a commission of no greater than one-half of one percent (0.5%) of the purchase price for the Brookhaven Campus (the “Buyer Broker Commission”); and

WHEREAS, in relation to the Closing of the Sale and services rendered by the Real Estate Agents, the Debtor received multiple invoices requesting commissions in various amounts from the Real Estate Agents; and

WHEREAS, by virtue of various rights, claims, duties and obligations in relation to the Debtor and its Chapter 11 Case, UMB Bank, National Association, as successor indenture trustee for the Series 1996 Bonds and Series 2002 Bonds and indenture trustee for the Series 2015 Bonds (“UMB”), Wilmington Trust, National Association, as successor indenture trustee for the Series 2006 Bonds (“Wilmington Trust”), ACA Financial Guarantee Corporation, as bond insurer for the Series 2006 Bonds (“ACA”), and the Official Committee of Unsecured Creditors (the “Committee”, and together with UMB, Wilmington Trust and ACA, referred to as the “Creditor Parties”), each have an interest in and have taken positions concerning the fees and commissions to be paid to the Real Estate Agents resulting from the Sale; and

WHEREAS, representatives of the Debtor, the Creditor Parties, the Office of the United States Trustee (the “U.S. Trustee”) and the Real Estate Agents have engaged in extensive discussions in relation to the fees and commissions asserted as due in relation to the Sale; and

WHEREAS, the parties believe that the commission and fees established herein below are

fair and reasonable, that resolution as set forth herein is in the best interest of all parties hereto and they therefore desire to enter into a settlement as reflected in this stipulation (the “Stipulation”);

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

1. The Debtor shall pay an aggregate of \$400,000.00 in the following manner (the “Agreed Payments”) by wire transfer within three (3) business days of this Court’s approval of this Stipulation:

- a. \$195,000 to A&G (for the benefit of A&G and Madison Hawk);
- b. \$145,000 to CBRE; and
- c. \$60,000 to Buyer Broker.

2. The Agreed Payments shall be in full and final satisfaction of any and all rights or claims, whether asserted now or in the future, by any of the Real Estate Agents and/or the Buyer Broker seeking recovery of fees, commissions, costs or expenses, if any, from the Debtor, its estate, or the Creditor Parties on account of the Sale. Each of the Real Estate Agents and/or the Buyer Broker individually agree to the allocation of the commission set forth above and agree that they will not pursue any action against each other in connection with the Sale or marketing of the Debtor’s property to the Buyer.

3. Notwithstanding the payments to be made in accordance with the foregoing paragraph, the Real Estate Agents shall timely file final fee applications with this Court. The parties hereto, each individually, agree that they will not object to final fee applications consistent with the commission and allocations contemplated herein.

*[Signature Page Follows]*

Dated: New York, New York  
November 20, 2018

**A&G REALTY PARTNERS, LLC**

By: /s/ Andrew Graiser  
Andrew Graiser  
445 Broadhollow Road, Suite 410  
Melville, NY 11747

Dated: New York, New York  
November 20, 2018

**MADISON HAWK PARTNERS, LLC**

By: /s/ Jeffrey Hubbard  
Jeffrey Hubbard  
575 Lexington Avenue, Suite 4017  
New York, NeY 10022

Dated: New York, New York  
November 20, 2018

**CBRE, INC.**

By: /s/ Wanda N. Goodloe  
Wanda N. Goodloe  
Senior Vice President and  
General Counsel Northeast Division  
200 Park Avenue  
New York, New York 10166

Dated: New York, New York  
November 20, 2018

**WHALE ROCK REALTY, LLC**

By: /s/ Chris Kempner  
Chris Kempner  
PO Box 207  
Quogue, NY 11959

Dated: New York, New York  
November 20, 2018

**KLESTADT WINTERS JURELLER  
SOUTHARD & STEVENS, LLP**  
Counsel to the Debtor

By: /s/ Sean C. Southard  
Sean C. Southard  
200 West 41<sup>st</sup> Street  
New York, NY 10036  
(212) 972-3000

Dated: New York, New York  
November 20, 2018

**WHITE & CASE LLP**  
Counsel to ACA Financial Guaranty  
Corporation, as Bond Insurer for the Series  
2006 Bonds

By: /s/ Brian Pfeiffer  
Brian Pfeiffer  
1221 6th Avenue  
New York, NY 10020  
(212) 819-8237

Dated: Jericho, New York  
November 20, 2018

**SILVERMANACAMPORA LLP**  
Counsel to the Official Committee of  
Unsecured Creditors of Dowling College

By: /s/ Ronald J. Friedman  
Ronald J. Friedman  
100 Jericho Quadrangle, Suite 300  
Jericho, New York 11753  
(516) 479-6300

Dated: Boston, Massachusetts  
November 20, 2018

**MINTZ, LEVIN, COHN, FERRIS  
GLOVSKY AND POPEO, P.C.**  
Counsel to Oppenheimer Rochester Short  
Term Municipal Fund, as Holder of Certain  
Series 1996 Bonds

By: /s/ Ian A. Hammel  
P. Miyoko Sato  
Ian A. Hammel  
One Financial Center  
Boston, Massachusetts 02111  
(617) 348-1896

Dated: Boston, Massachusetts  
November 20, 2018

**MINTZ, LEVIN, COHN, FERRIS  
GLOVSKY AND POPEO, P.C.**  
Counsel to Oppenheimer Rochester Limited  
Term New York Municipal Fund, as Holder of  
Certain Series 1996 and Series 2015 Bonds

By: /s/ Ian A. Hammel  
P. Miyoko Sato  
Ian A. Hammel  
One Financial Center  
Boston, Massachusetts 02111  
(617) 348-1896

Dated: Boston, Massachusetts  
November 20, 2018

**MINTZ, LEVIN, COHN, FERRIS  
GLOVSKY AND POPEO, P.C.**  
Counsel to Oppenheimer Rochester AMT-  
Free New York Municipal Fund, as Holder of  
Certain Series 1996, Series 2002, and Series  
2015 Bonds

By: /s/ Ian A. Hammel  
P. Miyoko Sato  
Ian A. Hammel  
One Financial Center  
Boston, Massachusetts 02111  
(617) 348-1896

**SO ORDERED:**

***IT IS HEREBY SO ORDERED:***